

2. In contrast to the claim construction briefing, the venue briefing has yet to conclude. In fact, WSOU no longer represents it will conclude discovery before the *Markman* hearing. Compare Dkt. 76 with Dkt. 68 (WSOU stating that venue discovery “should be complete by April 30”). Nevertheless, the *Markman* hearing remains several weeks before the conclusion of the venue discovery in the cases on June 4, 2021 (and the remaining briefing for the Second Motion to Dismiss)—and, as stated above, is just a few weeks away. In the unlikely event that WSOU immediately completes venue discovery, the briefing-hearing-ruling process will not be complete before the *Markman* hearing. As such, the venue issues **will not** be resolved before the currently-scheduled *Markman* hearing.

3. Thus, as outlined in the pending Motion to Stay (which is ripe for resolution), Dkt. No. 49, and in accordance with the Standing Order and Federal Circuit mandate/precedent,² Defendants again respectfully request that all issues unrelated to venue be stayed, pending the outcome of the Second Motion to Dismiss.

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Respectfully submitted,

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² See *In re TracFone Wireless, Inc.*, 2021-118, 2021 WL 865353 (Fed. Cir. Mar. 8, 2021) (district courts must give venue motions “top priority before resolving the substantive issues in the case”); see also *In re Apple*, 979 F.3d 1332, 1337 (Fed. Cir. 2020) (resolution of venue issues should “unquestionably take top priority” in a case); and *In re SK Hynix Inc.*, No. 2021-113, 2021 WL 321071, at *1 (Fed. Cir. Feb. 1, 2021) (prioritization of venue considerations).

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system on May 7, 2021.

/s/Lionel M. Lavenue

Lionel M. Lavenue